

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

STEVEN Z. RAST,)	
)	
Petitioner,)	
)	
v.)	
)	Civil Action No. 3:23-48
MICHAEL C. UNDERWOOD, Warden)	Judge Nora Barry Fischer
)	Magistrate Judge Keith Pesto
Respondent.)	

MEMORANDUM ORDER

AND NOW, this 31st day of December, 2024, upon consideration of the Report and Recommendation filed by United States Magistrate Judge Keith A. Pesto on May 31, 2023, (Docket No. 8), recommending that the § 2241 habeas petition filed by Petitioner Steven Z. Rast against Michael Underwood be dismissed for lack of subject matter jurisdiction because he is attempting to bring a civil rights action complaining about medical care/prison conditions using a 2241 habeas petition form, Petitioner's objections which were timely filed within 14 days as directed by the Magistrate Judge wherein he complains about the BOP's computation of presentence credits and his release date, (Docket No. 9), this matter having been recently reassigned to the undersigned for prompt disposition of the matter, (Docket No. 10), and upon independent review of the record and de novo consideration of the Magistrate Judge's Report and Recommendation, which is ADOPTED as the opinion of this Court, in part, as it further appears to the Court that Petitioner has been released from BOP custody as of December 15, 2023, such that his Petition must also be dismissed, as moot, *see e.g., Malik v. Warden Loretto FCI*, No. 23-2281, 2024 WL 3649570, at *2 (3d Cir. Aug. 5, 2024) ("Because Malik had been released to

prerelease custody, his request for release to such custody was moot. [...] Regardless of whether his request for an earlier transfer to supervised release was moot at the time of the Magistrate Judge's order or simply meritless because he had already received the maximum credit allowed towards an earlier release from custody to supervised release, see § 3624(g)(3), such a request is moot now that Malik is on supervised release.”); *Constantine v. United States*, No. 1:23-CV-22, 2023 WL 6811999, at *2 (W.D. Pa. Aug. 28, 2023), *report and recommendation adopted*, No. CV 23-22, 2023 WL 6810862 (W.D. Pa. Oct. 16, 2023) (“Since the BOP released Petitioner from its custody, there is no longer any habeas relief that this Court can provide.”);

IT IS HEREBY ORDERED that Petitioner’s Objections (Docket No. 9) are OVERRULED;

IT IS FURTHER ORDERED that the Petition (Docket No. 5) is DISMISSED, as follows: his civil rights claims complaining of medical care/prison conditions are dismissed, without prejudice and his habeas claims challenging the computation of his sentence are dismissed, with prejudice, as moot and no certificate of appealability shall issue;

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED; and,

FINALLY, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

s/Nora Barry Fischer
Nora Barry Fischer
Senior U.S. District Judge

cc/ecf: Magistrate Judge Keith A. Pesto

cc: **STEVEN Z. RAST**
91365-071
FCI LORETTO
Inmate Mail/Parcels
P.O. BOX 1000
CRESSON, PA 16630 (via first class mail)